

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**OHIO & VICINITY CARPENTERS'  
FRINGE BENEFIT FUNDS, INC.,**

**Plaintiff,**

**v.**

**Civil Action 2:18-cv-1073  
Judge George C. Smith  
Magistrate Judge Jolson**

**HARRIS INDUSTRIAL SERVICES,**

**Defendant.**

**REPORT AND RECOMMENDATION**

This is an action for unpaid fringe benefit contributions, statutory interest, and other damages under ERISA, 29 U.S.C. § 1132. After Defendant was served and failed to plead or otherwise defend this action, Plaintiffs applied to the Clerk for entry of default. (Doc. 6). The Clerk entered default pursuant to Federal Rule Civil Procedure 55(a) on November 5, 2018. (Doc. 6). Plaintiffs filed a Motion for Default Judgment on April 25, 2019 and a Motion to Amend/Correct the Motion for Default Judgment on May 3, 2019. (Docs 7,8).

Upon review, it is **RECOMMENDED** that Plaintiffs' Motions (Docs 7, 8) be **GRANTED** and judgment be entered in favor of Plaintiffs and against Defendant as follows:

1. Audit for fringe benefits in the amount of \$10,667.27;
2. Attorney fees and costs in the total amount of \$1,227.25;
3. Defendant **SHALL** abide by all terms and conditions of the CBA, including, but not limited to, timely payment of contributions and posting of the required cash deposit or surety.

If any party seeks review by the District Judge of this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties objections to the Report and Recommendation, specifically designating this Report and Recommendation, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy thereof. Fed. R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Fed'n of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO ORDERED.

Date: May 6, 2019

/s/ Kimberly A. Jolson  
KIMBERLY A. JOLSON  
UNITED STATES MAGISTRATE JUDGE